

ENTERED

December 06, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

FRED HOFFMAN, III,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL NO. 2:18-CV-328
	§	
EVELYN CASTRO, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER

The Court is in receipt of Defendant Evelyn Castro’s (“Castro”) Motion to Dismiss, Dkt. No. 112; Castro’s Supplemental Motion for Summary Judgment, Dkt. No. 116; Plaintiff Fred Hoffman, III’s (“Hoffman”) Response, Dkt. No. 124; Plaintiff’s Motion to Reconsider Dismissal of the Director of the Texas Department of Criminal Justice (“TDCJ”), Dkt. No. 130; Plaintiff’s Alternative Motion to Substitute Parties, Dkt. No. 130; Plaintiff’s Motion to Permit Discovery Concerning Alleged Mootness, Dkt. No. 130; Plaintiff’s Motion for Leave to Amend Complaint, Dkt. No. 130; the Magistrate Judge’s Memorandum and Recommendation (“M&R”), Dkt. No. 131; Castro’s Objections to the M&R, Dkt. No. 135; and Plaintiff’s Response, Dkt. No. 136. The Court overrules Castro’s objections to the M&R.

After independently reviewing the record and the applicable law, the Court **ADOPTS** the M&R, Dkt. No. 131, in substance.¹ The Court:

- **DENIES** Castro’s dispositive motions, Dkt. Nos. 112, 116:

¹ The Court alters and adopts the following statements (with the corrections in bold type):

- “Plaintiff has suffered multiple seizures at the Bill Clements Unit as a result of **officers**’ use of flashlights and constant illumination in his cell.” Dkt. No. 131 at 7.
- “Plaintiff’s allegations, therefore, suggest that current TDCJ **policies** related to the use of strobe-capable flashlights have led to violations of his Eighth Amendment rights and caused him injury.” *Id.* at 15.
- “Rather, on December 20, 2019, the Court adopted the undersigned’s December 13, 2018 M&R **only** retaining Plaintiff’s deliberate indifference claims only against Assistant Warden Furr and dismissing all other defendants, including former TDCJ Director Davis.” *Id.* at 16.

- **GRANTS** Plaintiff's Motion to Reconsider Dismissal of the Director of the TDCJ, Dkt. No. 130 (**TDCJ Director Bobby Lumpkin is substituted in place of Castro in this action**);
- **DENIES** Plaintiff's Alternative Motion to Substitute Parties, Dkt. No. 130; and
- **DENIES AS MOOT** Plaintiff's Motion to Permit Discovery Concerning Alleged Mootness, Dkt. No. 130, and Motion for Leave to Amend Complaint, Dkt. No. 130.

SIGNED this 5th day of December 2021.



Hilda Tagle
Senior United States District Judge